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In *Rawls*, § 19-418, now § 21a-279, criminalized the possession of “any quantity of any narcotic substance,” and in *Ruscoe*, § 53-132 criminalized the selling of “any . . . equipment” with defective identification marks. (Emphasis added.) Our Supreme Court concluded in both cases that the statutes were ambiguous as to whether separate punishments were authorized for the possession of more than one item. See, e.g., *State v. Ruscoe*, supra, 212 Conn. 257. It consequently concluded that, pursuant to the rule of lenity, the defendants’ respective multiple convictions violated the prohibition against double jeopardy.¹⁰ See, e.g., *id.*, 258. In marked contrast, the statute at issue in the present case, § 53a-217 (a) (1), criminalized the possession of “a” firearm, not “any” firearm, as was the case in *Rawls*. Moreover, firearm is not a word that can be singular and plural, as was the case with the word equipment in *Ruscoe*.

We conclude that the trial court properly construed § 53a-217 (a) (1) and, therefore, conclude that it properly denied the defendant’s second motion to correct an illegal sentence.

II

The defendant also claims that the trial court improperly failed to apply the rule of lenity when a reasonable doubt persisted as to whether the legislature intended to authorize punishments for the simultaneous possession of more than one firearm. The state argues that the rule of lenity applies only when an ambiguity concerning the legislative intent exists after applying the

¹⁰ The defendant also argues that, in *Rawls* and *Ruscoe*, our Supreme Court analyzed the issue of multiple punishments for possession of multiple items pursuant to the *Blockburger* test. However, neither case cites *Blockburger*. Instead, the court looked to the text of the statutes themselves to determine the legislative intent. See, e.g., *State v. Rawls*, supra, 198 Conn. 121 (“the question before us becomes whether the legislature in enacting § 19-481 (a) intended to authorize dual convictions for the simultaneous possession of cocaine and heroin”).

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rules of statutory construction. We agree with the state.

“[T]he touchstone of [the] rule of lenity is statutory ambiguity. . . . Thus, as the United States Supreme Court has explained, courts do not apply the rule of lenity unless a reasonable doubt persists about a statute’s intended scope *even after resort to the language and structure, legislative history, and motivating policies of the statute.*” (Citation omitted; emphasis in original; internal quotation marks omitted.) *State v. Lutters*, 270 Conn. 198, 219, 853 A.2d 434 (2004).

Because we reject the defendant’s contention that § 53a-217 (a) (1) is ambiguous; see part I of this opinion; we also reject his claim that the rule of lenity applies under the facts of the present case. Accordingly, the trial court properly denied the defendant’s second motion to correct an illegal sentence.

The judgment is affirmed.

In this opinion the other judges concurred.

JOSEPH STEPHENSON v. COMMISSIONER
OF CORRECTION
(AC 41812)

Alvord, Devlin and Norcott, Js.

Syllabus

The petitioner, who previously had pleaded guilty to two counts of larceny in the sixth degree, sought a writ of habeas corpus, claiming that his trial counsel rendered ineffective assistance by failing to accurately advise him about the consequences of pleading guilty under federal immigration law. The petitioner was ordered removed from the United States on the basis of the two larceny convictions as well as a prior conviction of robbery. The habeas court rendered judgment dismissing the habeas petition as moot, concluding that it could provide no practical relief because the petitioner did not challenge the robbery conviction in his amended habeas petition and that conviction was a separate basis for the petitioner’s ordered removal. Thereafter, the habeas court granted the petition for certification to appeal, and the petitioner appealed to this court. *Held:*

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1. The trial court did not improperly dismiss the amended habeas petition as moot because no practical relief from his ordered removal could be afforded to the petitioner; a decision on the merits challenging the larceny convictions could not provide the petitioner relief from his ordered removal because the petitioner's robbery conviction, not challenged in the amended habeas petition, serves as an independent basis for the petitioner's ordered removal.
2. The trial court improperly dismissed the amended habeas petition as moot because the larceny convictions give rise to a reasonable possibility of prejudicial collateral consequences as a matter of law; the petitioner has not yet been removed from the United States and additional sources of prejudicial consequences apart from removal and barred reentry are a reasonable possibility in connection with the petitioner's potential future involvement with the criminal justice system, and, accordingly, the judgment was reversed and a new habeas trial was ordered.
3. This court declined to review the petitioner's ineffective assistance of counsel claim; the habeas court did not rule on the merits and there were existing factual disputes that could not be resolved on appeal.

Argued October 16, 2019—officially released April 28, 2020

Procedural History

Amended petition for a writ of habeas corpus, brought to the Superior Court in the judicial district of Tolland and tried to the court, *Sferrazza, J.*; judgment dismissing the petition, from which the petitioner, on the granting of certification, appealed to this court. *Reversed; new trial.*

Vishal K. Garg, for the appellant (petitioner.)

James M. Ralls, assistant state's attorney, with whom, on the brief, were *Richard J. Colangelo, Jr.*, state's attorney, *Juliana Waltersdorff*, assistant state's attorney, and *Michael Proto*, senior assistant state's attorney, for the appellee (respondent).

Opinion

ALVORD, J. The petitioner, Joseph Stephenson, appeals from the judgment of the habeas court dismissing, as moot, his petition for a writ of habeas corpus. The court dismissed the petition, which alleged that the petitioner's trial counsel had rendered ineffective assistance by inaccurately advising him about the consequences of pleading guilty under federal immigration

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law, because the petitioner's ordered removal from the United States rests, in part, on a conviction that he did not challenge in his habeas petition. On appeal, the petitioner claims that the court improperly dismissed his petition as moot, arguing that (1) "deportation—not a deportation order—is the triggering event that renders a case moot, and that a case does not become moot until [the] petitioner is actually physically removed from the United States," and (2) "collateral consequences other than immigration exist and will continue to exist until the petitioner's actual physical removal from the United States." We agree with the petitioner's second argument and, thus, reverse the judgment of the court.¹

The following undisputed facts and procedural history are relevant to this appeal. The petitioner is a citizen of Jamaica, which is his country of origin. On or about December 20, 1985, the petitioner was admitted to the United States under nonimmigrant B-2 status. On February 14, 2000, the petitioner's immigration status was changed to that of a lawful permanent resident.

On March 5, 2013, the petitioner pleaded guilty to a charge of larceny in the sixth degree in violation of General Statutes § 53a-125b in each of two dockets (larceny convictions).² On April 9, 2013, the petitioner was sentenced to two concurrent 364 day terms of imprisonment on the larceny convictions.³ The concurrent 364 day sentences

¹ The petitioner also claims that his "constitutional right to effective assistance of counsel . . . was violated by counsel's failure to adequately advise [him] about the immigration consequences of pleading guilty." Because we conclude in part II of this opinion that the court did not make sufficient factual findings to enable our review of this claim, we do not reach it but, instead, remand the case for a new trial. See footnote 20 of this opinion.

² The petitioner further pleaded guilty to being a persistent larceny offender under General Statutes § 53a-40.

³ The petitioner's habeas counsel represented that, as of the date of trial on his habeas petition, the petitioner had completed serving his concurrent 364 day sentences. The petitioner's counsel further represented that the